

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

| | | |
|---------------------------------|---|----------------------|
| BRANDY WHITE, |) | |
| |) | |
| Plaintiff, |) | |
| v. |) | C.A. No. 12-241 Erie |
| |) | |
| CAROLYN W. COLVIN, ¹ |) | |
| Comm'r of Soc. Security, |) | |
| Defendant. |) | |

MEMORANDUM ORDER

Plaintiff's complaint was received by the Clerk of Court on October 10, 2012, and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The magistrate judge's report and recommendation, filed on September 18, 2013, recommended that Plaintiff's Motion for Summary Judgment be granted, to the extent remand for further consideration is demanded, and denied, to the extent reversal and an immediate award of benefits is demanded, Defendant's Motion for Summary Judgment be denied, and the decision of the ALJ be vacated and the case remanded for reconsideration consistent with this Opinion.

The parties were allowed ten (10) days from the date of service to file objections. Service was made on Plaintiff and Defendant by NEF. No objections were filed. After de

¹ Carolyn Colvin became the Acting Commissioner of Social Security on February 14, 2013 and is automatically substituted as the Defendant in this suit pursuant to Federal Rule of Civil Procedure 25(d).

novo review of the pleadings and documents in the case, together with the report and recommendation, the following order is entered:

AND NOW, this 8th day of January, 2014;

IT IS HEREBY ORDERED that Plaintiff's Motion for Summary Judgment (Dkt. #9) is GRANTED, to the extent remand for further consideration is demanded, and DENIED, to the extent reversal and an immediate award of benefits is demanded. Defendant's Motion for Summary Judgment (Dkt. #11) is DENIED, and the decision of the ALJ is VACATED. The case is remanded for reconsideration consistent with the Opinion issued by the Magistrate Judge.

"On remand, the ALJ shall fully develop the record and explain [his or her] findings... to ensure that the parties have an opportunity to be heard on the remanded issues and prevent *post hoc* rationalization" by the ALJ. *Thomas v. Comm'r of Soc. Sec.*, 625 F.3d 798, 800 – 01 (3d Cir. 2010). *See also Ambrosini v. Astrue*, 727 F. Supp. 2d 414, 432 (W.D. Pa. 2010). Testimony need not be taken, but the parties should be permitted input via submissions to the ALJ. *Id.* at 801 n. 2.

The report and recommendation of Magistrate Judge Baxter, dated September 18, 2013, is adopted as the opinion of the court.

/s/Donetta W. Ambrose
DONETTA W. AMBROSE
United States Senior District Judge

cc: Susan Paradise Baxter
U.S. Magistrate Judge

all parties of record _____